

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

KENNETH MOORE,)	
)	
Plaintiff)	
)	
v.)	Civil No. 99-0043-B
)	
DONALD ALLEN, et al.,)	
)	
Defendants)	

RECOMMENDED DECISION

Five of the eleven named Defendants in the above-entitled action move to dismiss Plaintiff's Complaint for his failure to exhaust administrative remedies available within the Maine Department of Corrections. The time for Plaintiff to file an objection to the Motion to Dismiss has expired and Plaintiff has not objected. In this District, Plaintiff is deemed to have waived objection to the Motion. D. Me. R. 7(b). Accordingly, I hereby recommend Defendants' Motion to Dismiss be GRANTED, and the matter DISMISSED as to Defendants Lancaster, Doiron, Hasson, Kane, and Dufresne.¹

¹ The undersigned declines to accept Defendants' counsel's suggestion that the matter be dismissed as to the remaining Defendants, who have yet to be served. *See, eg., Beeson v. Fishkill Corr. Fac.*, 28 F. Supp. 884, 887-88 (S.D.N.Y. 1998) (collecting conflicting cases addressing the question whether claims for excessive force or for monetary relief are required to be exhausted under 42 U.S.C. sec. 1997e).

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) (1988) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

Eugene W. Beaulieu
United States Magistrate Judge

Dated on July 13, 1999.